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H.R. 3328, Foreign Affairs, M.L & "Capital Markets"

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100TH CONGRESS
1ST SESSION

H. R. 3328

To prohibit investment in United States capital markets by certain South African mining interests.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1987

Mr. LELAND introduced the following bill; which was referred jointly to the Committees on Foreign Affairs and Energy and Commerce

A BILL

To prohibit investment in United States capital markets by certain South African mining interests.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as "The Apartheid Profits Disin-
5 centive Act of 1987".

6 SEC. 2. PROHIBITION ON INVESTMENT IN UNITED STATES

7 CAPITAL MARKETS BY CERTAIN SOUTH AFRI-

8 CAN MINING INTERESTS.

9 The Comprehensive Anti-Apartheid Act of 1986 is
10 amended by adding after title VI the following new title:

1 **"TITLE VII—MEASURES TO PRO-**
2 **HIBIT THE INVESTMENT OF**
3 **APARTHEID PROFITS IN THE**
4 **UNITED STATES CAPITAL MAR-**
5 **KETS BY SOUTH AFRICAN**
6 **MINING INTERESTS**

7 "SEC. 701. FINDINGS OF CONGRESS.

8 "The Congress makes the following findings:

9 "(1) South African mining interests directly profit
10 from the most abhorrent aspects of the apartheid
11 system.

12 "(2) The working conditions in the South African
13 mining industry are universally regarded as unsafe,
14 unfair, and racially discriminatory.

15 "(3) Certain South African mining interests have
16 invested, directly and indirectly, the profits generated
17 from the apartheid system into United States capital
18 markets thus limiting the impact of United States eco-
19 nomic sanctions.

20 "(4) Although the people of the United States
21 favor free and open access to United States capital
22 markets, they oppose the investment of profits immor-
23 ally obtained from the system of apartheid in these
24 capital markets and oppose permitting United States

1 companies to become subject to the influence of foreign
2 companies that profit from the system of apartheid.

3 “(5) The people of the United States find the
4 system of apartheid morally repugnant and wish to ter-
5 minate that system.

6 “SEC. 702. PROHIBITION ON INVESTMENT IN UNITED STATES
7 CAPITAL MARKETS BY CERTAIN SOUTH AFRI-
8 CAN MINING INTERESTS.

9 “(a) PROHIBITION ON INVESTMENT IN UNITED
10 STATES CAPITAL MARKETS.—No capital stock or other
11 business interest of any business entity incorporated, char-
12 tered, or organized in the United States may be acquired,
13 purchased, or held (either directly or indirectly) by any
14 person or entity controlled or influenced by certain South Af-
15 rican mining interests described in subsection (b).

16 “(b) PERSONS AND ENTITIES CONTROLLED OR INFLU-
17 ENCED BY CERTAIN SOUTH AFRICAN MINING INTER-
18 ESTS.—For purposes of the prohibition under subsection (a) a
19 ‘person or entity controlled or influenced by certain South
20 African mining interests’ is—

21 “(1) a corporation, partnership, or business entity
22 organized under the laws of South Africa or under the
23 government of South Africa which derives more than
24 10 percent of its revenues, profits, or income from cer-
25 tain South African mining activities;

1 “(2) a corporation, partnership, or business
2 entity—

3 “(A)(i) which derives more than 15 percent
4 of its gross revenues from direct or indirect busi-
5 ness interests or investments in South Africa; or

6 “(ii) of which more than 15 percent of its
7 gross assets are located in South Africa; and

8 “(B) which derives more than 10 percent of
9 its revenues, profits, or income from certain South
10 African mining activities;

11 “(3) an alien or a representative of an alien—

12 “(A) who owns (directly or indirectly) or
13 votes more than 5 percent of the capital stock or
14 equity interest of any corporation, partnership, or
15 business under paragraphs (1) or (2); and

16 “(B) who derives more than 10 percent of
17 revenues, profits, or income from certain South
18 African mining activities;

19 “(4) a corporation, partnership, or business entity
20 of which more than 10 percent of the capital stock or
21 equity interest is owned (either directly or indirectly) or
22 voted by any person, corporation, partnership or busi-
23 ness entity referred to in paragraphs (1), (2), and (3);
24 or

1 “(5) a corporation, partnership, or business entity
2 of which more than 20 percent of the capital stock or
3 equity interest is owned (either directly or indirectly) or
4 voted by any corporation, partnership or business
5 entity under paragraph (4);

6 “(c) CERTAIN SOUTH AFRICAN MINING ACTIVI-
7 TIES.—For the purposes of this section the term ‘certain
8 South African mining activities’ means ‘the mining in South
9 Africa of diamonds, gold, lead, silver, zinc, or copper under
10 business practices that do not adhere to the Code of Conduct
11 under section 208 of this Act’.

12 "SEC. 703. DIVESTMENT OF PROHIBITED CAPITAL INVEST-
13 MENT.

14 “Any person, corporation, partnership, business entity,
15 or any alien or representative of such alien, owning (either
16 directly or indirectly) or holding capital stock or business in-
17 terest in violation of section 702 shall divest ownership of all
18 such capital stock or business interest within one year after
19 the date of the enactment of this Act.

20 "SEC. 704. ADMINISTRATION AND ENFORCEMENT.

21 “(a) APPLICABILITY OF ADMINISTRATIVE PROVISIONS
22 UNDER TITLE VI.—Notwithstanding section 603(d)(3), the
23 provisions of section 603 and title VI shall apply with respect
24 to the administration and enforcement of, and penalties for
25 violations under, this title.

1 “(b) **EQUITABLE RELIEF AND PRIVATE RIGHT OF**
2 **ACTION.**—The United States or any person aggrieved may
3 bring a civil action in an appropriate district court for equita-
4 ble relief with respect to any violation of section 702 or 703
5 of this Act. If a plaintiff other than the United States is a
6 prevailing party in such an action, the court shall award costs
7 and reasonable attorney fees to that plaintiff. For purposes of
8 this subsection a ‘person aggrieved’ shall include any share-
9 holder, officer, employee, or employee representative (includ-
10 ing designated collective bargaining agent) of a company
11 whose capital stock or other business interest is acquired,
12 purchased, or held (either directly or indirectly) in violation of
13 section 702 or 703 of this Act.”.

14 **SEC. 3. EFFECTIVE DATE.**

15 The amendments made by this Act shall take effect 30
16 days after the date of the enactment of this Act.

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